

**Notice of Allowability**

Application No.

09/427,600

Examiner

Todd M Jack

Applicant(s)

BETTS ET AL.

Art Unit

2133

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 16 August 2004.
2. ☒ The allowed claim(s) is/are 3-5,19-23,25,41,43,45,46 and 48-61.
3. ☒ The drawings filed on 27 October 1999 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets" ) must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948 ) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☒ Other Office Action.

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. Claims 3-5, 19-23, 25, 41, 43, 45-46 and 48-61 are allowed.

2. The following is an examiner's statement of reasons for allowance:

The prior arts teach that Holthaus (6,229,897) teaches scrambling the audio content, which has been transformed to digital, a digital bit stream transmitted to a device, a pseudo random generator creating a stream of pseudo randomly generated digital bits, digital bit stream, DSP scrambles the digital audio content, and the DSP removes any masking signal and unscrambles any scrambled audio. However, the prior arts of record taken alone or in combination fail to teach, anticipate, suggest, or render obvious the claimed invention. The method steps claimed are not anticipated nor render obvious by the prior arts. The prior arts taken singly or in combination do not teach the communication device with a system of bits per symbol of pseudo-noise.

Specifically, the prior arts taken singly or in combination fail to teach, anticipate, suggest, or render obvious the "system supporting a variable number of bits per symbol less than or equal to a maximum number of bits per symbol, means for converting each N bits of the digital data stream into a symbol index to produce a stream of symbol indices, and a PNS comprising M output bits, wherein M is at least as large as the maximum number of bits per symbol and M is independent of N." Consequently, claim 19, 48, 51, 54, and 58 is allowed over the prior art of record. Claims 3-5, 19-23, 25, 41, 43, 45-46, and 48-61 are

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directly or indirectly dependent upon claim 19 and therefore are also allowable over the prior arts of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd M Jack whose telephone number is 571-272-3823. The examiner can normally be reached on M-Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on 571-272-3819. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

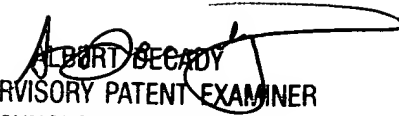
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Todd Jack  
December 28, 2004

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ALBERT SECADY  
SUPERVISORY PATENT EXAMINER  
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